

COUNTY OF LOS ANGELES

**SHERIFF'S DEPARTMENT***A Tradition of Service*

DATE: December 23, 2009

OFFICE CORRESPONDENCEFILE NO. SH2240121-  
FO2253202FROM: ERIC B. SMITH, COMMANDER  
LEADERSHIP AND TRAINING DIVISIONTO: KARYN MANNIS, CAPTAIN  
INTERNAL AFFAIRS BUREAUSUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**  
**DEPUTY EDUARDO LABAYNA # [REDACTED]**  
**WEST HOLLYWOOD STATION**

West Hollywood Station Deputy Eduardo Labayna shot at Suspect Stuart Bird, missing him, when he fled in his Mercedes Benz while dragging Deputy Randall Slate along the driver's side of the car from the location of a traffic stop.

Deputy Randall Slate and his partner, Eduardo Labayna, conducted a traffic stop of a green 2003 Mercedes Benz station wagon with paper placards (i.e., no license plates), on Mansfield Avenue, just south of Santa Monica Boulevard. The driver and sole occupant (later identified as Suspect Bird) did not have a driver's license in his possession, but provided his name and a birth date to Deputy Slate. Suspect Bird also handed Deputy Slate a temporary registration slip from the car's windshield.

Deputy Slate checked information via his Mobile Digital Terminal (MDT) and located an outstanding \$30,000 arrest warrant for a narcotics violation for a similarly described person. Deputy Slate returned to Suspect Bird's car to speak with him about further identifying himself. When he provided information about his middle name that matched that of the warrant, Deputy Slate asked Suspect Bird to step out from his car. Instead, Suspect Bird started the car, and Deputy Slate tried to pull the door-lock button up to unlock the door. Suspect Bird grabbed Deputy Slate's right arm and began to drive away. Deputy Slate used his left hand and tried to strike Suspect Bird with his flashlight.

Deputy Labayna, seeing his partner being dragged down the street along the driver's side of Suspect Bird's car, fired four rounds from his Department-authorized .45 caliber pistol at the suspect (and the rear of the vehicle). This apparently caused Suspect Bird to release his grip on Deputy Slate, who fell to the ground after being dragged about 30 feet and had sustained head and arm abrasions. Deputy Slate dropped his flashlight in the suspect's car as it fled.

Suspect Bird continued driving away and was last seen westbound on Romaine Street.

Both deputies identified Suspect Bird from a photographic show-up. With the assistance of the Major Crimes Bureau's Fugitive Task Force, Suspect Bird was located and arrested later at night on March 19, 2009.

Deputy Slate was treated at Olympia Medical Center for head and arm abrasions and was released.

On December 10, 2009, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

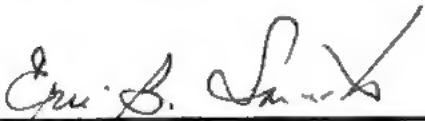
Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Eduardo Labayna # [REDACTED] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by [REDACTED] was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by all personnel in this incident were within Department Policy.

The Committee directs the unit commander to send Deputy Eduardo Labayna # [REDACTED] and [REDACTED] to eight hours of Tactics and Survival Training as part of the Continuing Professional Training (CPT) curriculum and a debriefing, documented by the Tactics and Survival Training Unit. The APIS Roster of the training attended and the documentation of the debriefing must be returned.

  
Eric B. Smith, Commander

EBS:YLW/ylw

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## INVESTIGATOR'S LOG

## SUPERVISOR'S REPORT ON USE OF FORCE

## INVESTIGATIVE SUMMARY

## TRANSCRIBED INTERVIEWS

- IAB's interview with Deputy Randall Slate
- IAB's interview with Deputy Eduardo Labayna
- West Hollywood Station, Detective Kevin Acebedo's (2) interviews with Suspect Stuart Bird

## EXHIBITS

- A -** Los Angeles County Sheriff's Incident Report under #009-01692-0999-011 authored by Deputies Clifford Anger and Nikolai Vavakin.
- B -** Supplemental Report authored by Deputy Randall Slate.
- C -** (4) pictures depicting injuries to Deputy Slate.
- D -** Supplemental Report authored by Deputy Eduardo Labayna.
- E -** Diagram of scene as depicted by Deputy Eduardo Labayna.
- F -** Supplemental Report authored by Deputy Ramon Alvarez re: witness statements.
- G -** Supplemental Report authored by Crime Scene Investigator, David Alonso, re: recovery of casings and photographs of crime scene, along with a CD containing pictures of crime scene.
- H -** Supplemental Report authored by Forensic Identification Specialist, Martin Mutuc, re: sketch of crime scene and evidence list.
- I -** Supplemental Report authored by Deputy Nikolai Vavakin re: evidence collection.
- J -** Supplemental Report authored by Marco Iezza, from the Firearms Identification Section re: test fire of Deputy Labayna's weapon.
- K -** Copy of Deputy Labayna's Weapons Training Records.
- L -** CD containing audio transmission re: "10-33, 998, and fleeing suspect."
- M -** 3 Supplemental Reports authored by Detective Gregory Boagni;
  - (a.) - re: interview of witnesses, search warrant, and change of stat code.
  - (b.) - re: interview of witness.
  - (c.) - re: interview of witnesses and evidence booked.
- N -** DVD depicting suspect vehicle from two different cameras.

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- O - Supplemental Report and Memorandum authored by Major Crimes Bureau, [REDACTED] re: arrest of Suspect Bird.
- P - CHP 180 authored by Deputy [REDACTED] re: impounding suspect vehicle.
- Q - Supplemental Report authored by Crime Scene Investigator, David Alonso, re: photographs taken of impounded vehicle and CD containing photographs.
- R - Supplemental Report authored by Senior Criminalist, Christine Pinto, re: evidence collection.
- S - Supplemental Report authored by Detective Kevin Acebedo re: interview of Suspect Stuart Bird and (3) pictures depicting injury to Suspect Bird's chest.
- T - Booking Record for Suspect Bird.
- U - CD containing Detective Acebedo's audio interviews with Suspect Bird.
- V - Supplemental Report authored by Detective Gregory Boagni re: case closure.
- W- Copy of District Attorney's Felony Filing Complaint #SA070682.
- X - Inmate Medical Documentation report for Suspect Stuart Bird.

## MISCELLANEOUS DOCUMENTS

- Copy of Suspect Bird's CCHRS / CII
- Copy of West Hollywood Station EM Shift In-service dated March 19, 2009
- Signed Admonition Forms for: Deputies Randall Slate and Eduardo Labayna.
- CD containing crime scene footage after the shooting incident.
- Deputy Daily Worksheet for Deputies Labayna and Slate dated 03-19-09.
- Receipt for Investigative Material

# Los Angeles County Sheriff's Department

## Officer Involved Shooting

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Report Date: 09-23-09		Bureau/Station/Facility: F.O.R. II / WHD		Admin. Invest.? <input type="checkbox"/> Hit? <input type="checkbox"/>	
<b>Incident Information</b>					
URN: 009-01692-0999-057		Date: 03-19-09		Time: 0110 hours	
City or Station: Los Angeles		Nature of Incident: Two-man unit conducting a vehicle traffic stop on suspect. As Deputy Slate was attempting to open the driver's door, suspect grabbed onto Slate's arm holding it as he drove away. Fearing serious injury to Slate, Deputy Labayna fired four rounds at suspect, missing him. Suspect drove away and was later arrested.			
Location: 1041 Mansfield Avenue					
Location Type (circle one or more): Backyard Beach <u>Business</u> Freeway Industrial Park Parking Lot Residence Rural School <u>Street</u> Other: _____	Lighting (circle only one): Darkness Daylight Other <u>Street Lights</u>  Weather (circle only one): <u>Clear</u> Cloudy Fog Rain  Distance: _____	Incident Type (circle one or more): Accidental <u>Armed Person</u> <u>Fleeing Suspect</u> Foot Pursuit Gun Take Away <u>Moving Vehicle</u> Sniper/Ambush Startle <u>Struggle Involved</u> <u>Traffic Stop</u> Unarmed Person Unintentional Vehicle Pursuit Warrant Service Warning Shot Other: _____		Initiated by (circle only one): Arrest Warrant Call Observation One Person Unit Other Search Warrant <u>Two Person Unit</u>  Prior Activity (circle only one): Detective Inmate Transport Other <u>Routine Patrol</u>  Aero Unit? <input type="checkbox"/> Canine Unit? <input type="checkbox"/>	
Total # of Shots Fired by Deputy: 4		Total # of Shots Fired by Suspect: none			
<b>Employee Witnesses</b>					
Employee #	Last Name	First Name	M.I.	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty
	Slate	Randall	B.	<u>EM</u>	<u>Regular</u>
Employee #	Last Name	First Name	M.I.	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty
Employee #	Last Name	First Name	M.I.	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty
<b>Non-Employee Witnesses</b>					
Last Name		First Name		M.I.	
Street Address		City		Zip Code	
Last Name		First Name		M.I.	
Street Address		City		Zip Code	
Last Name		First Name		M.I.	
Street Address		City		Zip Code	
<b>Supervisors</b>					
Employee #	Last Name	First Name	M.I.	(circle one or more): <u>On Duty</u> Present during shooting	Witness to shooting Involved in shooting
	Aloma	Sergio	A.		
Employee #	Last Name	First Name	M.I.	(circle one or more): <u>On Duty</u> Present during shooting	Witness to shooting Involved in shooting
	Petrocelli	Sandra	L.		
<b>Watch Sergeant</b>					
Employee #	Last Name	First Name		M.I.	
<b>Watch Commander</b>					
Employee #	Last Name	First Name		M.I.	
	Del Mese	Lawrence		E.	

PSTD Use Only
SH # 2240121

Rollout Information					
Arrival Date	03-19-09	Arrival Time	0315	Date Submitted	09-23-09
Date of Recommendation					
Employee #		Last Name	Kusch	First Name	Roderick M.I. A.
Employee #		Last Name	Grote	First Name	Dinah M.I. L.
Employee #		Last Name	Haynes	First Name	Laura M.I. L.
Shooting / Force Information					

## Method

(AW)	Anwen	(OV)	Other Weapon: Vehicle
(BC)	Baton:(Control)	(OB)	Other Weapon: Blunt Object
(BI)	Baton:(Inspect)	(OO)	Other Weapon: Other
(BF)	Bodily Fluids	(PK)	Personal Weapon: Feet/Leg (Kick)
(CN)	Canine	(PS)	Personal Weapon: Feet/Leg: (Sweep)
(CR)	Caroid Restraint	(PH)	Personal Weapon (Hand/Arm)
(CH)	Choke Hold	(PP)	Personal Weapon (Push)
(CT)	Control Holds:(Control Techniques)	(PO)	Personal Weapon (Other)
(TT)	Control Holds:(Team Takedown)	(RS)	Resistance
(TD)	Control Holds:(Takedown)	(CN)	Restraint Device (Capture Net)
(CE)	Chemical	(RH)	Restraint Device (Handcuffs)
(OC)	Chemical Agents (OC Spray)	(HD)	Restraint Device:Hobble (Legs Only)
(TG)	Chemical Agents (Tear Gas)	(TP)	Restraint Device:Hobble (TARP)
(EX)	Explosives	(RE)	Restraint Device: REACT Belt
(FH)	Firearm (Handgun)	(SP)	Sap
(FR)	Firearm (Rifle)	(SH)	Shield
(FS)	Firearm (Shotgun)	(SG)	37mm Stinger
(FO)	Firearm (Other)	(SB)	Sting Ball
(FB)	Flashbang	(ST)	Stun Bag
(FL)	Flashlight	(TR)	Taser
(OE)	Other Weapon: Edged	(UC)	Uncooperative

### Type of Injury

(AB)	Abrasion
(BR)	Bruise
(BU)	Burn
(CP)	Complaint of Pain
(CO)	Concussion
(DH)	Death
(DI)	Dislocation
(DB)	Dog Bite
(FR)	Fractures
(GS)	Gunshot
(HB)	Human Bite
(LC)	Lacerations
(ND)	Nerve Damage
(OD)	Organ Damage
(PA)	Paralysis
(PW)	Puncture Wound
(SD)	Soft Tissue Damage
(ST)	Sprain/Twists
(UN)	Unconscious
(RM)	Refused Med Treatment
(NN)	NONE

**Body Part Injured**

(AD)	Abdomen
(AK)	Ankle
(AR)	Arm
(BK)	Back
(BT)	Buttocks
(CH)	Chest
(EL)	Elbow
(FA)	Face
(FE)	Feet
(FI)	Fingers
(GE)	Genitals
(GR)	Groin
(HD)	Hand
(HE)	Head
(HI)	Hip
(IN)	Internal
(KN)	Knees
(LE)	Leg
(NK)	Neck
(SH)	Shoulder
(WR)	Wrist

**Brand**

(AK)	AK-47	(IV)	Iver Johnson	(RI)	RGI
(BN)	Benelli	(JE)	Jennings	(RO)	Rossi
(BR)	Beretta	(LO)	Lorcin	(SW)	Smith & Wesson
(BW)	Browning	(LU)	Luger	(SR)	Sturm Ruger
(CH)	Charter Arms	(MA)	Marlin	(ST)	Sterling
(CO)	Colt	(MO)	Mossberg	(TA)	Taurus
(DA)	Davis Industries	(NC)	NCI aka SKS	(WE)	Weatherby
(GL)	Glock	(NA)	North American	(WN)	Winchester
(HA)	Harrington & Richardson	(NO)	Norinco	(US)	US Government
(HI)	Hi Standard	(RA)	Raven	(YY)	Handmade (Inmate)
(HK)	H & K	(RM)	Remington	(XX)	Homemade (Non-Inmate)
(IT)	Itasca	(RG)	RG	(ZZ)	Other Brand

**Caliber**

(9)	9 mm	(24)	.243 caliber	(41)	.410 gauge
(10)	10 mm	(25)	.25 caliber	(44)	.44 caliber
(12)	12 gauge	(30)	.308 caliber	(45)	.45 caliber
(20)	20 gauge	(35)	.357 caliber	(50)	50 mm
(21)	.22-250	(38)	30-60 caliber	(SL)	Slug
(22)	.22 caliber	(38)	.38 caliber	(WW)	Other caliber
(23)	.223 caliber	(40)	.40 caliber		

**FORCE APPLIED** (one code per block)

[illegible]



# Officer Involved Shooting Involved Employee Information

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## Involved Employee

E 1	Employee #	Last Name <b>Labayna</b>	First Name <b>Eduardo</b>	M.I. <b>Y.</b>
Sex: <b>M</b> Race: <b>F</b>		Rank <b>B-1 Deputy</b>	Unit Assignment: <b>WHD</b>	Work Assignment (Unit #, Module, etc.): <b>92B</b>
Shift Time (circle only one): <b>EM</b> PM Day		Shift Type (circle only one): <b>Regular</b> Overtime Off Duty	Intoxication/Drug Usage? <input type="checkbox"/>	
Substance Used:		Coroner Case #		
Hospital Admission? <input type="checkbox"/>		Hospital Name:	Coroner Case? <input type="checkbox"/>	Interviewed? <input checked="" type="checkbox"/>
Hrs of sleep prior to shooting: <b>7-8 hours</b>		Duty Time (hrs): <b>5' 00</b>	Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Vest <b>Uniform w/ Vest</b> Raid Jacket w/ Vest Uniform no Vest	
Age: <b>5' 00</b> Height: <b>140</b> Weight:		Other Factors:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? <input type="checkbox"/>	Patrol Certification? <input type="checkbox"/>	Certification Unit:	Prior Shootings? <input checked="" type="checkbox"/>	Number of Prior Shootings: <b>1</b> Directed Force: <input type="checkbox"/>
Weapons Fired Brand: <b>S&amp;W</b> Caliber: <b>.45</b> # Shots: <b>4</b>		Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp #		Last Name	First Name	M.I.
Field Training Officer Emp #		Last Name	First Name	M.I.

E	Employee #	Last Name	First Name	M.I.
Sex: Race:		Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
Shift Time (circle only one): EM PM Day		Shift Type (circle only one): Regular Overtime Off Duty	Intoxication/Drug Usage? <input type="checkbox"/>	
Substance Used:		Coroner Case #		
Hospital Admission? <input type="checkbox"/>		Hospital Name:	Coroner Case? <input type="checkbox"/>	Interviewed? <input type="checkbox"/>
Hrs of sleep prior to shooting:		Duty Time (hrs):	Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest	
Age: Height: Weight:		Other Factors:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? <input type="checkbox"/>	Patrol Certification? <input type="checkbox"/>	Certification Unit:	Prior Shootings? <input type="checkbox"/>	Number of Prior Shootings: Directed Force: <input type="checkbox"/>
Weapons Fired Brand: Caliber: # Shots:		Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp #		Last Name	First Name	M.I.
Field Training Officer Emp #		Last Name	First Name	M.I.

E	Employee #	Last Name	First Name	M.I.
Sex: Race:		Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
Shift Time (circle only one): EM PM Day		Shift Type (circle only one): Regular Overtime Off Duty	Intoxication/Drug Usage? <input type="checkbox"/>	
Substance Used:		Coroner Case #		
Hospital Admission? <input type="checkbox"/>		Hospital Name:	Coroner Case? <input type="checkbox"/>	Interviewed? <input type="checkbox"/>
Hrs of sleep prior to shooting:		Duty Time (hrs):	Clothing (circle only one): Plain Clothes no Vest Plain Clothes w/ Vest Raid Jacket w/ Vest Uniform no Vest Uniform w/ Vest	
Age: Height: Weight:		Other Factors:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? <input type="checkbox"/>	Patrol Certification? <input type="checkbox"/>	Certification Unit:	Prior Shootings? <input type="checkbox"/>	Number of Prior Shootings: Directed Force: <input type="checkbox"/>
Weapons Fired Brand: Caliber: # Shots:		Weapons Fired Brand: Caliber: # Shots:		
Field Training Officer Emp #		Last Name	First Name	M.I.
Field Training Officer Emp #		Last Name	First Name	M.I.

# Officer Involved Shooting Suspect Information

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## Suspect Information

S 1	Last Name Bird		First Name Stuart		M.I. R.
	AKA Last Name		First Name		M.I.
	Porter		Steven		
	Sex: M Race: W	Street Address:		City	State & Zip Code
	Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
	Age: 54 D.O.B. 07-27-54	Height: 6' 00 Weight: 170	FBI #	CII #	
	Booking # 1843669	Primary Charge: 245(c) P.C.		Secondary Charge: 69 P.C.	
	Coroner Case? <input type="checkbox"/>	Coroner Case #	Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:	
	Armed? <input type="checkbox"/>	Apprehended? <input checked="" type="checkbox"/>	Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>	
	Vehicle Make Mercedes Benz		Model: SW	Year: 1998	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
	Sex: Race:	Street Address:		City	State & Zip Code:
	Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
	Age: D.O.B.	Height: Weight:	FBI #	CII #	
	Booking #	Primary Charge:		Secondary Charge:	
	Coroner Case? <input type="checkbox"/>	Coroner Case #	Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:	
	Armed? <input type="checkbox"/>	Apprehended? <input type="checkbox"/>	Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>	
	Vehicle Make		Model:	Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
	Sex: Race:	Street Address:		City	State & Zip Code:
	Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
	Age: D.O.B.	Height: Weight:	FBI #	CII #	
	Booking #	Primary Charge:		Secondary Charge:	
	Coroner Case? <input type="checkbox"/>	Coroner Case #	Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:	
	Armed? <input type="checkbox"/>	Apprehended? <input type="checkbox"/>	Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>	
	Vehicle Make		Model:	Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
	Sex: Race:	Street Address:		City	State & Zip Code:
	Work Phone:	Home Phone:	Social Security #:	Driver's License #:	
	Age: D.O.B.	Height: Weight:	FBI #	CII #	
	Booking #	Primary Charge:		Secondary Charge:	
	Coroner Case? <input type="checkbox"/>	Coroner Case #	Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:	
	Armed? <input type="checkbox"/>	Apprehended? <input type="checkbox"/>	Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>	
	Vehicle Make		Model:	Year:	



**INTERNAL AFFAIRS BUREAU  
INVESTIGATIVE SUMMARY  
DEPUTY INVOLVED SHOOTING (NON-HIT)  
IAB #SH2240121 and #FO2253202**

**URN:** 009-01962-0999-011  
**DATE / TIME:** Thursday, March 19, 2009, 0110 hours  
**LOCATION:** 1041 Mansfield Avenue, Los Angeles, California  
**SUSPECT:** Stuart Rutherford Bird, MW/54, Booking #1843669  
**PERSONNEL:** Deputy Randall Slate, # [REDACTED] Unit 92B, EM's  
Deputy Eduardo Labayna, # [REDACTED] Unit 92B, EM's

On March 19, 2009, the Internal Affairs Bureau's Force and Shooting Response Team responded to the City of Los Angeles, near the West Hollywood Station area, regarding a deputy involved, non-hit shooting. The team consisted of Lieutenant Roderick Kusch and Sergeants Dinah Grote and Laura Haynes. Attorney Angelica Arias of the Office of Independent Review also responded.

**IAB NOTE:** IAB Lieutenant Rod Kusch checked to see that the watch commander, Lieutenant Lawrence Del Mese, took reasonable steps to ensure that the involved and witness personnel did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved and witness personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Kusch checked to see if the watch commander attempted to have involved and witness personnel gather in the company of a supervisor ([REDACTED]) until they have provided a statement to the assigned investigators.

When the team arrived at the location there was an active command post and containment of the area for the outstanding suspect who fled the location in his vehicle. Investigators learned that the series of events which occurred, culminated into a deputy involved, non-hit shooting involving Deputies Randall Slate and Eduardo Labayna. The personnel involved in the incident are uniformed patrol deputies working a two-person unit.

During the incident, Deputy Randall Slate sustained minor abrasions and contusions to the right side of his forehead and right wrist. He was treated by medical staff from the Olympia Medical Center and released to light-duty status pending a follow-up visit. It was later discovered that Deputy Slate remained off work due to a fractured wrist. He returned back to full duty work status on May 13, 2009.

**SYNOPSIS:**

On March 19, 2009, at approximately 0110 hours, Deputies Randall Slate (driver) and Eduardo Labayna (book-person) were working a two-person unit. They were traveling eastbound on Santa Monica Boulevard from La Brea Avenue when they observed a green Mercedes Benz station wagon traveling eastbound on Santa Monica Boulevard in front of them, driving with dealer paper placards.

Deputy Slate followed the vehicle eastbound on Santa Monica Boulevard and initiated the patrol car's overhead red lights to conduct a traffic stop regarding the no license plate violation. He also used the Public Address (PA) system on his patrol car and directed the driver, Suspect Stuart Bird, to turn southbound on Mansfield Avenue due to the traffic concerns on Santa Monica Boulevard. The suspect turned his vehicle southbound onto Mansfield Avenue and came to a stop south of Santa Monica Boulevard.

Deputy Slate stopped the patrol car behind the suspect vehicle and approached the driver and sole occupant of the vehicle, Suspect Bird. Deputy Labayna covered Deputy Slate from the right side of the suspect vehicle on the sidewalk. Deputy Slate noted the vehicle's back and side windows were tinted. He made contact with Suspect Bird and asked for the vehicle registration. Suspect Bird told Deputy Slate the vehicle was purchased a month prior to the traffic stop and he had not yet received new license plates from the Department of Motor Vehicles.

Deputy Slate was given a copy of the vehicle's temporary registration form and he saw the owner's name was a female. Deputy Slate was told by Suspect Bird the registered female owner was his [REDACTED]. He asked Suspect Bird for his driver's license. Suspect Bird searched through his wallet. Not locating his license, Suspect Bird provided Deputy Slate his name, along with a business card. Deputy Slate asked Suspect Bird his date of birth and his address. In his contact with Suspect Bird, Deputy Slate noted the suspect was nervous as he returned to his patrol vehicle and entered Suspect Bird's personal information into the computer's "Want" system via the Mobil Digital Terminal.

Deputy Labayna continued to cover the suspect vehicle after Deputy Slate was at the patrol car. Deputy Labayna then walked back to the patrol vehicle and was advised by Deputy Slate that a \$30,000 warrant out of Beverly Hills Court came back to the suspect's name. The date of birth was off on the year, but matched on the month and date. Deputy Slate advised Deputy Labayna that he believed the warrant belonged to the suspect and he was going to effect the arrest.

Deputy Slate re-contacted Suspect Bird as Deputy Labayna stood on the sidewalk on the right side of the suspect vehicle. Deputy Slate confirmed the middle name and address of Suspect Bird which matched that for the warrant. Convinced the warrant belonged to Suspect Bird, and wanting to affect the arrest, Deputy Slate told Suspect Bird to exit his vehicle. Hearing the conversation and knowing that Deputy Slate was now going to arrest the suspect, Deputy Labayna started walking around the vehicle's rear bumper to assist in the arrest.

Deputy Slate noted the suspect appeared to get nervous and started to fidget, so Deputy Slate reached down to grab the outer door handle. When he did this, Suspect Bird reached over and grabbed Deputy Slate's right hand and pulled it into the vehicle all the way to Deputy Slate's elbow area while putting the vehicle into gear. Deputy Slate was unable to free his hand/arm from Suspect Bird's grasp and believed he was going to be run over by the suspect as he was hobbling along the side of the driver's side door.

Deputy Labayna had just rounded the driver's side rear bumper when he heard the car start up. He hurried to Deputy Slate's side and saw Deputy Slate moving with the vehicle. Deputy Labayna tapped Slate's shoulder, telling him to let go of the moving vehicle. Deputy Slate, who was trying to pull away from the suspect's grasp, told Deputy Labayna that the suspect was holding onto him and that he (Suspect Bird) would not let go of him as the vehicle continued to accelerate forward with Deputy Slate being pulled along.

As the vehicle began moving southbound on Mansfield Avenue, Deputy Slate, who was holding his flashlight in his left hand, struck the suspect's chest area approximately two to three times as Suspect Bird continued to hold onto his arm, while Deputy Slate had to "gallop" to keep up with the vehicle. Simultaneously, as Deputy Slate struck the suspect, Deputy Labayna feared the suspect was going to seriously injure or kill his partner by running him over, so Deputy Labayna fired four rounds from his duty .45 caliber semiautomatic handgun at the suspect, missing him and the vehicle.

When the rounds were fired, either the suspect let go of Deputy Slate or Deputy Slate was able to pull free. Deputy Slate then fell face down onto the concrete street striking the right side of his forehead. Simultaneously, he rolled his body away from the moving vehicle as it continued southbound on Mansfield Avenue to westbound Romaine Street, out of view. Deputy Labayna ran to check on Deputy Slate just as he (Deputy Slate) stood up in the street.

Deputy Slate then put out "10-33" (emergent) radio traffic advising of the shooting and the fleeing suspect vehicle information. Because the traffic stop occurred in the City of Los Angeles, the Los Angeles Police Department (LAPD) was notified and they responded to assist. Also, Deputy Slate requested rescue personnel due to his head injury. A command post was set up by West Hollywood Station personnel, and an active search for the named suspect was ongoing at the time of the Internal Affairs Bureau (IAB) response. Refer to the Incident Report by Deputies Clifford Anger and Nikolai Vavakin (**Exhibit A**), and a supplemental report by Deputy Ramon Alvarez regarding witnesses (**Exhibit F**) and security video (**Exhibit M-c**).

Deputy Slate was treated at the Olympia Medical Center for an abrasion to the right side of his forehead, a sprained right wrist with an abrasion, and complaint of pain to his right elbow and right ribs. It was later learned that Deputy Slate had sustained a fractured right wrist. He returned back to full duty work status on May 13, 2009. Refer to Deputy Slate's supplemental report (**Exhibit B**) and photographs of his injuries (**Exhibit C**).

At West Hollywood Sheriff's Station, IAB Sergeants Dinah Grote and Laura Haynes retrieved Deputy Labayna's weapon from his holster. The magazine and live rounds were counted. The handgun, magazine, and live rounds were taken as evidence, and later submitted to the Scientific Services Bureau's Firearms Section under Lab Receipt #K080271. Refer to the Firearms test fire results listed as **Exhibit J**.

After further investigation by West Hollywood Station detectives and later in the afternoon of March 19, 2009, the suspect's vehicle was located, along with Deputy Slate's recovered flashlight. Refer to supplemental reports by Deputy [REDACTED] and Scientific Services Bureau Investigators David Alonso and Christine Pinto (**Exhibits P, Q, and R**).

With the assistance of the Major Crimes Bureau's Fugitive Task Force, Suspect Bird was located and arrested later at night on March 19, 2009. Refer to Deputy [REDACTED] supplemental report (**Exhibit O**). Suspect Bird was transported to the West Hollywood Sheriff's Station and booked for attempt murder on a peace officer (**Exhibit T**).

**INVOLVED PERSONNEL:**

**SLATE**, Randall B.

Deputy Sheriff, Employee # [REDACTED]

Field Operations - Region II

West Hollywood Station - Patrol Deputy, [REDACTED]

**WORK HISTORY:**

Date of Employment:

06-04-1991

Date assigned to Patrol:

[REDACTED]

Completed Patrol Training:

[REDACTED]

Prior Shooting Incident(s):

1

Prior Founded Force Incident(s):

[REDACTED]

**LABAYNA**, Eduardo Y.

Deputy Sheriff, Employee # [REDACTED]

Field Operations - Region II

West Hollywood Station - Patrol Deputy, [REDACTED]

**WORK HISTORY:**

Date of Employment:

01-21-2001

Date assigned to Patrol:

[REDACTED]

Completed Patrol Training:

[REDACTED]

Prior Shooting Incident(s):

1

Prior Founded Force Incident(s):

[REDACTED]

**SUSPECT INFORMATION:**

BIRD, Stuart Rutherford, MW/54, DOB: 07-27-1954, 6'00", 200 lbs. He was later arrested for attempt murder on a peace officer (664/187 P C ) and for a \$30,000 arrest warrant [REDACTED] Refer to his booking record,

***Exhibit T***

Booking #1843669, CII # [REDACTED] CCHRS # [REDACTED] FBI # [REDACTED]

A check of the CCHRS (Consolidated Criminal History Reporting System) [REDACTED]

[REDACTED] Refer to the CCHRS/CII printouts included under the ***Miscellaneous Documents*** section.

**EMPLOYEE WITNESS:**

None

**CIVILIAN WITNESSES:**

[REDACTED] MH/28, DOB: [REDACTED] Primary Phone # [REDACTED]

[REDACTED] MW/42, DOB: [REDACTED] Primary Phone # [REDACTED]

**INJURIES:**

Initially, Deputy Slate was treated for an abrasion to his right wrist, a contusion on the right side of his forehead, and complaint of pain to his right ribs and elbow. It was later discovered that he had sustained a fractured right wrist. Refer to photos taken of his injured right wrist and forehead, ***Exhibit C***.

Suspect Bird sustained a contusion to his upper chest area. Refer to photos taken of his injured chest area, ***Exhibit S***.

**IAB NOTE:** After his arrest, Suspect Bird was transported by West Hollywood Station personnel for an "okay to book" and then transported to the Inmate Reception Center where he was medically screened by nursing staff. For further, refer to the "Inmate Medical Documentation" report, ***Exhibit X***. West Hollywood Station jail could not locate Suspect Bird's medical clearance/okay to book paperwork. Medical Services Bureau was contacted for the missing documents. They could not locate them.

### **PHYSICAL EVIDENCE:**

After the shooting, four expended .45 caliber shell casings were located on Mansfield Avenue, south of Santa Monica Boulevard, by West Hollywood Station personnel and personnel from the Scientific Services Bureau. Three casings were located on the west sidewalk and one in the street, just north of 1041 Mansfield Avenue. The evidence was marked as "1 thru 4" and photographed by Forensic Identification Specialist II David Alonso. Refer to Forensic Identification Specialist II Alonso's report and photographs (**Exhibit G**), and the Scientific Services Bureau report and scene diagram by Forensic Identification Specialist II Martin Mutuc (**Exhibit H**). See Deputy Nikolai Vavakin's supplemental report regarding the collection of the shell casings (**Exhibit I**).

Later in the day on March 19, 2009, the suspect's vehicle was located and impounded at West Hollywood Station. Refer to the CHP 180 (**Exhibit P**). Forensic Identification Specialist II David Alonso responded and photographed the suspect's vehicle. Refer to his report and photographs (**Exhibit Q**). Senior Criminalist Christine Pinto also responded and collected a black metal flashlight with "SLATE [REDACTED]" engraved on it. Refer to her supplemental report (**Exhibit R**).

A security video from Hollywood Tow depicts two separate cameras/angles. Both angles show the suspect vehicle as it traveled southbound on Mansfield Avenue at the approximate time of the shooting (**Exhibit N**).

### **INVESTIGATORS' OBSERVATIONS:**

During a walk-through of the scene, it was determined the traffic stop took place at the west curb line on Mansfield Avenue, just south of Santa Monica Boulevard. Adjacent to the traffic stop on both the east and west sides of the street facing southbound were closed businesses with empty parking lots. Just south of the traffic stop on the west side of the street was an east/westbound alleyway behind the Santa Monica Boulevard businesses.

Looking southbound on Mansfield Avenue on both the east and west sides of the street, all the way to Romaine Street, were closed businesses, excluding "Hollywood Tow," which is located on the southwest corner of Mansfield Avenue and Romaine Street. The only physical evidence located at the scene was four shell casings. Three shell casings were located on the west sidewalk, and one shell casing was located in the street two feet east of the west curb line. Refer to the evidence list, crime scene sketch and photographs of shell casings (**Exhibits G, H and I**). There were no bullet strikes or damage located on any of the area buildings or property.

Upon locating the suspect vehicle, Forensic Identification Specialist II David Alonso did not locate any damage consistent with bullet strikes. However, he did note the rear bumper was cracked, so he went back to the location of the shooting and reinspected the area for possible additional evidence and found none. Refer to his report listed as **Exhibit Q**. Also, the suspect, when interviewed, stated that although he heard the gunshots, he did not



believe his vehicle was struck by gunfire. Refer to Suspect Bird's verbatim statements under the **Transcriptions** section of the casebook.

**IAB NOTE:** The location of the expended shell casings is not always a reliable indicator of a shooter's position. Many variables should be considered which include the firearm, the ammunition caliber and type, extractor location on the firearm, and the method and geometry of how the shooter is holding the weapon. After a shooting incident other factors need to be considered such as surface characteristics or composition of the ground or floor, and the slope of that surface, are important variables, as well as characteristics of any non-horizontal surfaces like cartridge cases bouncing off surrounding objects (walls, etc.).

#### **WEAPONS USED BY DEPUTY PERSONNEL:**

**Deputy Eduardo Labayna** carried his duty firearm, a 4 1/4" Smith & Wesson, .45 caliber, semiautomatic, stainless steel handgun, serial #VJJ[REDACTED] with "Winchester Ranger T-Series" brand ammunition. Deputy Labayna carried his weapon with eight rounds in the magazine and one in the chamber. During the incident, he fired four rounds. Following the shooting, he had four live rounds in his magazine and one in the chamber. The ammunition did not appear to be modified in any way. Deputy Labayna's expended bullets were not located or accounted for. Refer to the Scientific Services Bureau examination of Deputy Labayna's weapon and ammunition under Lab Receipt #K080271 (**Exhibit J**).

**IAB NOTE:** On October 19, 2009, I spoke to Firearms Specialist, Marco Iezza, who stated Deputy Labayna's handgun was examined, tested, and found to be functional. He stated the weapon and ammunition did not appear to be modified in any way and the trigger pull was within normal range.

Also, I spoke to Weapons Range Master, Sergeant David Nell. He stated the handgun and ammunition used by Deputy Labayna in the shooting is authorized by the Department. Sergeant Nell stated that Weapons Training Class number [REDACTED] is for all Department authorized .45 caliber handguns. In Deputy Labayna's weapons training records, it shows Deputy Labayna [REDACTED] the .45 caliber class on [REDACTED] and is authorized to carry the handgun. Prior to the shooting, Deputy Labayna last qualified with his on-duty .45 caliber handgun on [REDACTED]. For further, refer to his training scores under weapons code [REDACTED] which reflect his shooting scores utilizing the .45 caliber handgun, **Exhibit K**.

**Deputy Randall Slate** struck Suspect Bird approximately one to three times in the chest area with his flashlight, which was later recovered from inside the suspect's vehicle. For further, refer to **Exhibit R**.

**WEAPONS USED BY THE SUSPECT:**

Suspect Bird grabbed onto Deputy Slate's right arm and pulled him while driving away in his vehicle.

**PROPERTY DAMAGE:**

There was no property damage located on any of the adjacent business buildings or area vehicles.

**IAB NOTE:** On two occasions, Sergeant Grote telephoned and left voice messages with [REDACTED] the registered owner of the suspect vehicle, regarding the damaged bumper. She did not respond to the messages.

**CRIMINAL INVESTIGATION CHARGES:**

Investigator's Name:	West Hollywood Station Detective Gregory Boagni # [REDACTED]
Court:	Beverly Hills
Charges Filed:	245© PC and 69 PC
DA Case Number:	SA070682

On March 30, 2009, Deputy District Attorney, Roberto Rubalcava, filed the above charges against Suspect Slate. For further, refer to Detective Boagni's three supplemental reports (**Exhibit M, a-c**), Case Closure Report (**Exhibit V**), and the DA's filing Complaint (**Exhibit W**).

On July 8, 2009, Suspect Bird was held to answer on the above charges. His next scheduled court date is November 19, 2009.

**LIGHTING AND WEATHER CONDITIONS:**

It was clear and dark outside. There was a fixed overhead light post on the west sidewalk of Mansfield Avenue, slightly south of Santa Monica Boulevard, and two building lights adjacent to the patrol vehicle. South of the patrol vehicle along the west sidewalk, were another three fixed overhead light posts.

**INVOLVED EMPLOYEE'S STATEMENTS:**

*The following involved deputies were interviewed during the investigation. Precise wording may be obtained by reviewing the digitally audio recorded interview and/or the verbatim transcripts listed under the **Transcriptions** section of the casebook.*

**Deputy Randall Slate** was interviewed by IAB Sergeants Dinah Grote and Laura Haynes on March 19, 2009, at 0747 hours, at the West Hollywood Sheriff's Station. He declined representation during the interview. On April 16, 2009, at 1112 hours, he was additionally interviewed by Sergeant Grote via telephone. Again, he declined representation during the interview. Deputy Slate explained that he and his partner stopped the suspect to investigate why he had no license plates on his car. During his contact with the suspect (and sole occupant), he learned his identity and that he had a warrant for his arrest. When he asked the suspect to step out of the car to effect an arrest, the suspect grabbed Deputy Slate's right arm and pulled it inside the vehicle. The suspect started the car and drove away while holding Deputy Slate's arm. The suspect let go when Deputy Labayna shot at the suspect. Deputy Slate said he did not reach into the car to grab either the steering wheel or ignition key. For further, refer to Deputy Slate's verbatim transcripts, his supplemental report (**Exhibit B**), photographs of his injuries (**Exhibit C**), and his emergent radio transmissions (**Exhibit L**).

**Deputy Eduardo Labayna** was interviewed by IAB Sergeants Dinah Grote and Laura Haynes on April 6, 2009, at 1020 hours, at the IAB Commerce office. He was represented by Deborah Schild from Green & Shinee. Deputy Labayna explained that he and his partner stopped the suspect to investigate why he had no license plates on his car. During Deputy Slate's contact with the suspect (and sole occupant), he learned his identity and that he had a warrant for his arrest. When Deputy Slate asked the suspect to step out of the car to effect an arrest, the suspect started the car and drove away while holding Deputy Slate's arm. By this time, Deputy Labayna had moved beside Deputy Slate to assist in the arrest. But as the car drove away, Deputy Labayna moved to a position behind the car and fired four bullets toward the driver's seat because Deputy Slate was being dragged down the street. The suspect let go when Deputy Labayna shot at the suspect. For further, refer to Deputy Labayna's verbatim transcripts, his supplemental report (**Exhibit D**), and a diagram of the scene (**Exhibit E**). Also, refer to Deputy Labayna's Weapons Training Records (**Exhibit K**).

**IAB NOTE:** Deputy Labayna stated in approximately April of 1993, he had been involved in a previous on-duty non-hit shooting approximately when he worked for the [REDACTED]

#### **EMPLOYEE WITNESS STATEMENTS:**

None

#### **CIVILIAN WITNESSES STATEMENTS:**

*The civilian following witnesses were identified and interviewed during the investigation by West Hollywood Station personnel.*

██████████'s a ██████████ for ██████████. He stated at approximately 0100 hours on March 19, 2009, he was in the southeast portion of the tow yard when he heard five gunshots. He then saw a green Mercedes Benz station wagon traveling southbound on Mansfield Avenue to westbound Romaine Street. Refer to Deputy Alvarez' Supplemental Report, **Exhibit F**, and Detective Boagni's follow-up interview regarding security video provided by Witness ██████████ **Exhibit M-c**.

██████████ ██████████ was inside the business with a few customers when he heard two to three gunshots. He then heard tires screeching and saw a dark colored Mercedes Benz traveling southbound on Mansfield Avenue to westbound Romaine Street at a high rate of speed. He immediately locked the business doors and looked northbound on Mansfield Avenue and saw a patrol car, but no movement around the patrol car. Concerned, both he and Witness ██████████ drove to the patrol vehicle and saw the deputies. After learning the deputies were okay, they returned back to the business. For further, refer to Detective Boagni's Supplemental Report, presented as **Exhibit M-b**.

#### **SUSPECT STATEMENT**

*Suspect Stuart Bird was interviewed on March 19, 2009, at 2145 hours by West Hollywood Station, Detective Kevin Acebedo. Again, he was later interviewed by Detective Acebedo regarding his injured chest. Precise wording of the statements may be obtained by reviewing the digitally audio taped interviews and/or the verbatim transcripts listed under the **Transcriptions** section or the CD containing audio-taped interviews of Suspect Bird (**Exhibit U**).*

Refer to Detective Acebedo's Supplemental Report for a summary of his interview and photographs of Suspect Bird's injured chest (**Exhibit S**). He denied grabbing Deputy Slate's arm and said Deputy Slate reached inside his car.

#### **MISCELLANEOUS SECTION:**

After the shooting incident, an independent news reported videotaped the crime scene. Refer to a copy of the DVD located in the **Miscellaneous Documents** section.